

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALFREDO MAGANA GARIBAY (18),

Defendant.

No. 4:15-CR-6049-EFS-18

**ORDER SETTING PRETRIAL  
CONFERENCES AND TRIAL TO COINCIDE  
WITH CO-DEFENDANTS**

**CASE MANAGEMENT ORDER**

Defendant Alfredo Magana Garibay (18) is joined for trial with co-defendants Jese David Casillas Carrillo (2), Rosa Araceli Granados (3), Francisco Duarte Figueroa (6), Gabriela Mendoza Vasquez (7), Julio Cesar Rosales Saucedo (9), Brittney Lee Zaragoza (10), Salvador Gudino Chavez (11), Adam Benjamin Goldring (12), Juvenal Landa Solano (14), Erica Maria Solis (15), Edgar Omar Herrera Farias (16), Juan Bravo Zambrano (19), Miguel Reyes Garcia (21), Jose Adrian Mendoza (23), and Veronica Elvira Cortez (24). No motion to sever has been filed. Accordingly, the Court sets the pretrial conference and trial and enters a Case Management Order, which sets all Defendants' cases on the same timeline. Pursuant to 18 U.S.C. § 3161(h)(6), the resulting period of delay is excluded under the Speedy Trial Act as to Defendant Alfredo Magana Garibay (18).

1 The following Case Management Order sets forth the deadlines,  
2 hearings, and requirements that the parties will observe in this  
3 matter. To the extent this Order conflicts with any previously  
4 entered orders in this matter, this Order shall govern. All counsel  
5 are expected to carefully read and abide by this Order. The Court  
6 will grant relief from the requirements in this Order only upon motion  
7 and good cause shown.

8 **IT IS HEREBY ORDERED:**

9 **1. Emailing the Court.** Where this Order requires counsel to  
10 email documents to the Court, all documents shall be  
11 attached to the email in Microsoft Word (.doc/.docx) or  
12 rich-text (.rtf) format. The subject line of each email  
13 shall be formatted as follows:

14 **[Case No.]; [Case Name]; [Title of Document]**

15 (e.g.: 16-CR-9999-EFS; USA v. Doe; Trial Brief)

16 **2. CM/ECF Training.** The Eastern District of Washington uses  
17 electronic filing through CM/ECF. Counsel must contact the  
18 Clerk's Office to arrange CM/ECF training within 30 days of  
19 appearance in this case or be otherwise experienced in the  
20 use of CM/ECF either in the Eastern District of Washington  
21 or another district.

22 **3. Discovery**

23 **A.** All discovery documents must be Bates-stamped with a  
24 unique identifier and must be produced digitally in a  
25 text-searchable format. The Court will grant relief  
26

1 from this requirement only in exceptional  
2 circumstances, upon motion and good cause shown.

3 B. Pursuant to the Eastern District of Washington Local  
4 Criminal Rule 16, the Court presumes a defense  
5 request for discovery under Federal Rule of Criminal  
6 Procedure 16 for **documents and objects**, Fed. R. Crim.  
7 P. 16(a)(1)(E), **reports of examinations and tests**,  
8 Fed. R. Crim. P. 16(a)(1)(F), **AND expert witnesses**,  
9 Fed. R. Crim. P. 16(a)(1)(G), and orders these items  
10 to be disclosed. Therefore, the Court imposes a  
11 reciprocal duty on defense counsel to provide  
12 discovery under Rule 16(b)(1)(A-C) **for each of the**  
13 **above categories.** Defendants who do not wish to  
14 invoke reciprocal discovery obligations must file a  
15 notice with the Court and with opposing counsel prior  
16 to accepting discovery from the Government.

17 C. The Court further presumes a request for discovery  
18 and disclosure under Federal Rules of Evidence  
19 404(b), 608(b), and 609, *Brady v. Maryland*, 373 U.S.  
20 83 (1963), *Giglio v. United States*, 405 U.S. 150  
21 (1972), *United States v. Henthorn*, 931 F.2d 29 (9th  
22 Cir. 1991), and their progeny. These items are  
23 ordered to be disclosed.

24 D. For those discovery matters ordered to be disclosed  
25 by this Order, a party shall not file a motion  
26

1 seeking such discovery, unless the disclosing party  
2 fails to timely produce such discovery.

3 **E.** Any party seeking discovery or disclosure not  
4 otherwise provided for in this Order, or discovery  
5 that was ordered by this Order and not timely  
6 provided, shall file a motion stating the specific  
7 materials sought, the legal authority for the  
8 specific request, and certify that the movant has in  
9 good faith conferred or attempted to confer with the  
10 opposing party in an effort to obtain the discovery  
11 or disclosure without court action.

12 **4. Expert-Witness Summaries**

13 **A.** Each party shall produce to opposing counsel all  
14 summaries of its expert-witness testimony for which  
15 disclosure is required under Federal Rule of Criminal  
16 Procedure 16, by the deadlines set forth below:

17 **USAO's Experts: July 14, 2017**

18 **Defendants' Experts: July 21, 2017**

19 **USAO's Rebuttal Experts: July 28, 2017**

20 Also by the applicable deadline, counsel shall email  
21 an electronic copy of the summary to the Court at  
22 [SheaOrders@waed.uscourts.gov](mailto:SheaOrders@waed.uscourts.gov) and shall simultaneously  
23 file a Notice of Compliance with this requirement.

24 **B.** All summaries of expert witness testimony must  
25 conform to Federal Rule of Criminal Procedure 16 and  
26 applicable case law interpreting that Rule. The

1 Court will not permit an expert witness to testify  
2 about opinions that are not explicitly expressed in  
3 that expert's summary. *See, e.g., United States v.*  
4 *W.R. Grace*, 526 F.3d 499 (9th Cir. 2008).

5 C. A party is not permitted to call more than two expert  
6 witnesses on any issue, except with permission of the  
7 Court. L.R. 43(a)(3).

8 **5. Pretrial Conferences**

9 A. A pretrial conference is **SET** for **July 10, 2017**, at  
10 **1:30 p.m.** in **RICHLAND**. At this hearing, the Court  
11 will hear motions regarding discovery.

12 B. A pretrial conference is **SET** for **August 29, 2017**, at  
13 **10:00 a.m.** in **RICHLAND**. At this hearing, the Court  
14 will hear all *Daubert* motions.

15 C. The final pretrial conference is **SET** for **October 10,**  
16 **2017**, at **10:00 a.m.** in **RICHLAND**. At this hearing, the  
17 Court will hear all remaining pretrial motions.

18 D. All pretrial conferences are scheduled to last no  
19 more than **30 minutes**, with each side allotted **15**  
20 **minutes** to present their own motions and resist  
21 motions by opposing counsel. If any party  
22 anticipates requiring longer than 15 minutes, that  
23 party must notify the Courtroom Deputy at least seven  
24 days prior to the hearing. **Any party who fails to**  
25 **provide this notice will be limited to 15 minutes.**

1           **6. Motions Practice**

2           **A. Daubert.** By no later than **August 7, 2017**, all *Daubert*  
3           motions must be filed and served. See Fed. R. Crim.  
4           P. 12(c). All motions shall either be: (i) noted for  
5           hearing without oral argument 14 days after filing,  
6           or (ii) noted for hearing with oral argument at the  
7           August 29, 2017 pretrial conference. Responses and  
8           replies to motions must be filed in accordance with  
9           Local Rule 7.1.

10          **B. Generally.** By no later than **September 18, 2017**, all  
11          pretrial motions – including discovery motions and  
12          motions in limine – must be filed and served. See  
13          Fed. R. Crim. P. 12(c). All motions shall either be:  
14          (i) noted for hearing without oral argument 14 days  
15          after filing, or (ii) noted for hearing with oral  
16          argument at the October 10, 2017 pretrial conference.  
17          Responses and replies to motions must be filed in  
18          accordance with Local Rule 7.1.

19          **C. Expedited Hearing.** Any party seeking an expedited  
20          hearing on a time-sensitive matter must file a motion  
21          to expedite that (i) demonstrates good cause, (ii)  
22          states the position of the opposing party to the  
23          motion, and (iii) sets a date of hearing that is no  
24          less than **seven days** after the motion's filing.  
25          Should the motion to expedite require more immediate  
26          judicial attention, the motion shall establish the

necessity for an immediate hearing, and the filing party shall notify chambers staff of the motion.

**7. Trial Continuances**

**A. Motion Deadline.** All motions to continue the trial must be heard before or at the final pretrial conference. Any motion to continue trial made after the October 10, 2017 pretrial conference has occurred will not be granted absent exceptional circumstances.

**B. Statement of Reasons.** Pursuant to 18 U.S.C. § 3161, if the Defendant seeks a continuance, a Statement of Reasons in support of the motion to continue must be filed contemporaneously with the motion.<sup>1</sup> The Statement of Reasons must (i) be signed by the Defendant, (ii) be signed by a certified translator, if applicable, and (iii) indicate the latest date upon which Defendant is willing to proceed to trial.

**C. Procedure.** Before filing a motion to continue, counsel shall first contact the Courtroom Deputy at (509) 943-8172 to obtain new pretrial conference and trial dates consistent with the length of the requested trial continuance. Thereafter, counsel shall confer with opposing counsel regarding new case management deadlines consistent with the new pretrial conference and trial date. **All motions to continue**

---

<sup>1</sup> The Court's Statement of Reasons template can be found on the Eastern District of Washington's public website: [www.waed.uscourts.gov](http://www.waed.uscourts.gov).

must include new proposed case management deadlines (either joint or individual) to ensure the to-be-imposed deadlines are best suited to this case.

8. **Confidential Informants (CIs).** By no later than **October 2, 2017**, the USAO shall disclose to Defendants the identity of any CIs used in the case, as well as any *Giglio* information, and shall advise Defendants at that time whether any CI so identified is willing to be interviewed by defense counsel.

9. **Grand Jury Transcripts.** The USAO shall produce copies of the grand jury transcripts for any witness it intends to call at trial by: **October 2, 2017.**

10. **Exhibit Lists**

A. By no later than **October 20, 2017**, each party shall file a list of exhibits the party intends to introduce at trial. Each party shall also email copies of their exhibit list to the Court at [SheaOrders@waed.uscourts.gov](mailto:SheaOrders@waed.uscourts.gov). The parties shall provide their exhibit list in the following format:

Ex. #	Admitted	Description
1		Photograph of items seized
2		Aerial video surveillance from 1/1/2016. Start Time: 01:03:23 End Time: 01:09:54

Exhibit lists shall include a unique exhibit number and a brief description of the exhibit. For all exhibits consisting of an audio or video file, the



exhibit list must designate the precise beginning and ending time indexes of the portion of the file the party intends to use at trial.

**B.** The USAO shall consecutively number their exhibits from **1 to 999**. In single-defendant cases, Defendant shall consecutively number exhibits from **1000 to 1999**; in multi-defendant cases, Defendants shall consecutively number exhibits from x000 to x999, substituting "x" for each Defendant's assigned case identifier (e.g. Defendant 3 would number exhibits from 3000 to 3999, etc.). Exhibits shall be pre-marked for identification before trial commences.

**11. Witness Lists.** By no later than **October 20, 2017**, each party shall file and serve a list of witnesses that party intends to call to testify at trial. **The witness list must identify the existence, but need not include the name, of any CI the USAO intends to call to testify.** Parties shall email copies of their witness list to the Court at [SheaOrders@waed.uscourts.gov](mailto:SheaOrders@waed.uscourts.gov).

**12. Requested Voir Dire, Trial Briefs, Proposed Jury Instructions, and Verdict Form.** By no later than **October 20, 2017**, each party shall file requested voir dire, a trial brief, proposed jury instructions, and verdict form, in accordance with the requirements below. Each party shall email copies to the Court at [SheaOrders@waed.uscourts.gov](mailto:SheaOrders@waed.uscourts.gov).

1           **A. Requested Voir Dire.** The parties may request that  
2           the Court include specific questions during the  
3           Court's standard voir dire. Requested voir dire  
4           shall not duplicate information elicited in the  
5           Clerk's Office Jury Questionnaire and the Court's  
6           Criminal Jury Trial Procedures Letter.

7           **B. Trial Briefs.** Trial briefs shall not exceed 20 pages  
8           without prior Court approval, upon motion and good  
9           cause shown. LR 39.1.

10          **C. Proposed Jury Instructions and Verdict Form.** Jury  
11          instructions shall (i) address issues that are unique  
12          to the case, and (ii) include instructions regarding  
13          the elements of each charge or defense. If a Ninth  
14          Circuit Model Jury Instruction exists for a  
15          particular charge or defense, the parties shall  
16          provide the model instruction or shall submit  
17          argument as to why the instruction is inadequate or  
18          no longer supported by law. Proposed jury  
19          instructions shall be accompanied by a proposed  
20          verdict form. **The parties must confer to develop**  
21          **joint proposed jury instructions and the verdict**  
22          **form.** The Court will only accept an individual  
23          party's proposed jury instructions on those  
24          points/issues upon which the parties could not agree,  
25          and only if the party's memorandum accompanying the  
26          individually proposed instructions sets forth the

1 legal authority and justification for why the  
2 instructions are necessary.

3 **13. Exhibits**

4 **A. Exhibit Binders.** By no later than **October 23, 2017**,  
5 each party must provide to the Court two Bates-  
6 stamped copies of all trial exhibits – or, in the  
7 case of physical exhibits, a photograph or other  
8 reproduction of the exhibit – the party intends to  
9 introduce at trial. All trial exhibits shall be  
10 organized sequentially by exhibit number in a three-  
11 ring binder. The exhibit binders provided to the  
12 Court will not be available for use by the attorneys  
13 at trial.

14 **B. JERS.**

15 i. The Court utilizes the Jury Evidence Recording  
16 System (JERS), a system that makes evidence  
17 digitally available to the jury during  
18 deliberations. **Counsel shall promptly consult the**  
19 **Court's JERS Information web page<sup>2</sup> to acquaint**  
20 **themselves with JERS procedures and to ensure they**  
21 **acquire, retain, and provide evidence to the Court**  
22 **in the necessary format.**

23 ii. By no later than **October 20, 2017**, each party who  
24 intends to introduce evidence at trial must supply  
25 its JERS exhibits to the Courtroom Deputy in the

26 <sup>2</sup> <http://www.waed.uscourts.gov/jers-information>.

manner and format set forth in the JERS - Basics for Lawyers document.<sup>3</sup> Counsel may contact the Courtroom Deputy at (509) 943-8172 with any questions.

**C. Exchange of Exhibits.** By no later than **October 20, 2017**, each party must provide to all other parties a copy of the exhibits it intends to introduce at trial. The exhibits must be provided in digital format, unless the parties agree otherwise.

**14. Witnesses Requiring Counsel.** By no later than **October 20, 2017**, each party must advise the Court of any witness whose anticipated testimony may warrant the exercise of his/her rights under the Fifth Amendment and whether the witness requires the appointment of counsel.

**15. Trial Notices.** By no later than **October 20, 2017**, each party shall file a notice that indicates the amount of time requested for voir dire and for opening statement. In addition, defense counsel must indicate if his/her client waives presence at sidebar and jury questions.

**16. Technology Readiness Meeting.** By no later than **October 23, 2017**, any party seeking to offer video or audio evidence at trial must meet with Court staff at the location of the

---

<sup>3</sup> This document can be found on the Court's public website at the following link:

<http://www.waed.uscourts.gov/sites/default/files/u86/JERS%20-%20Basics%20for%20Lawyers.pdf>.

trial to verify compatibility with the Court's presentation systems. The parties shall contact the Courtroom Deputy at (509) 943-8172 to arrange this meeting.

**17. Trial.** The jury trial is **SET** for **November 1, 2017**, at **9:00 a.m.** in **RICHLAND**. Counsel and Defendants shall be prepared to meet with the Court at least 30 minutes prior to the commencement of the trial.

**18.** The Court finds that the delay in Defendant's trial is a reasonable period of delay resulting from the fact that Defendant is joined for trial with a co-defendant and no motion for severance has been granted. See 18 U.S.C. § 3161(h)(6). Pursuant to 18 U.S.C. § 3161(h)(6), the Court **DECLARES EXCLUDABLE from Speedy Trial Act calculations** the period from **June 12, 2017**, the date of this Order, through **November 1, 2017**, the new trial date, as the reasonable period of delay resulting from the joined trials.

**19. Summary of Deadlines**

<b>PRETRIAL CONFERENCE</b>	<b>July 10, 2017 1:30 P.M. - Richland</b>
Rule 16 expert summaries produced to other parties and emailed to Court: USAO's Experts Defendants' Experts USAO's Rebuttal Experts	<b>July 14, 2017 July 21, 2017 July 28, 2017</b>
All <i>Daubert</i> motions filed	<b>August 7, 2017</b>
<b>PRETRIAL CONFERENCE</b>	<b>August 29, 2017 10:00 A.M. - RICHLAND</b>
All pretrial motions filed, including motions in limine and discovery motions	<b>September 18, 2017</b>

CIs' identities, Giglio disclosures, and willingness to be interviewed disclosed to Defendants (if applicable)	October 2, 2017
Grand jury transcripts produced to Defendants	October 2, 2017
<b>FINAL PRETRIAL CONFERENCE</b> <b>Deadline for motions to continue trial</b>	October 10, 2017 10:00 A.M. - Richland
Exhibit & Witness lists filed and emailed to the Court	October 20, 2017
Notice of any witness likely to exercise Fifth Amendment rights and/or require appointed counsel filed with the Court	October 20, 2017
Trial briefs, jury instructions, verdict forms, and requested voir dire filed and emailed to the Court	October 20, 2017
Exhibits delivered to all other parties	October 20, 2017
Delivery of JERS-compatible digital evidence files to the Courtroom Deputy	October 20, 2017
Trial notices filed with the Court	October 20, 2017
Exhibit binders delivered to the Court	October 23, 2017
Technology readiness meeting (in-person)	October 23, 2017
<b>JURY TRIAL</b>	November 1, 2017 9:00 A.M. - RICHLAND

**IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and provide copies to all counsel, the U.S. Probation Office, and the U.S. Marshals Service.

**DATED** this 12<sup>th</sup> day of June 2017.

s/Edward F. Shea

EDWARD F. SHEA

Senior United States District Judge